

REPORT - PLANNING COMMISSION MEETING
September 12, 2002

Project Name and Number: Tentative Parcel Map 8012 (PLN2002-00329)

Applicant: Brian Tan

Proposal: To consider Tentative Parcel Map 8012 (a one-lot subdivision), to legalize one of the two parcels created by an illegal subdivision, and bring it into conformance with the City of Fremont Subdivision Ordinance and the Subdivision Map Act.

Recommended Action: Approve, based on findings and subject to conditions

Location: Northern portion of 14 Duarte Avenue in the Niles Planning Area.

Assessor Parcel Number: 507-0100-008-03

Area: 0.22 acres

Owner: Brian Tan

Agent of Applicant: Soosan Rod, ReMax East Bay Group

Consultant: Yev Philipovitch, The Culver Group, Engineer

Environmental Review: Categorical exemption per Section 15315 of the CEQA Guidelines, Minor Land Divisions.

Existing General Plan: Low Density Residential, 5-7 dwelling units per acre.

Existing Zoning: Single family residential, Historical Overlay District, Hillside Combining District, R-1-6 (H) (H-I)

Existing Land Use: Vacant

Public Hearing Notice: Public hearing notification is applicable. A total of 46 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Montalban Drive, Duarte Avenue, Easterday Way, Niles Boulevard, Nichols Avenue, and Mission Boulevard. The notices to owners and occupants were mailed on August 30, 2002. A Public Hearing Notice was delivered to The Argus on August 28, 2002 to be published by August 30, 2002.

Background and Previous Actions: On December 6, 2001, the northeastern portion of the existing lot at 14 Duarte Boulevard was sold to the applicant without a recorded parcel map. The purchaser of this illegal lot (applicant) would like to sell this lot and has applied for and prepared a single lot Tentative Parcel Map to bring this lot into compliance. This project is considered a "one-lot tentative parcel map" because the remaining portion of 14 Duarte Boulevard is not a part of this map. A Notice of Violation for 14 Duarte Boulevard will be filed with the County Recorder as provided for in the Subdivision Map Act. Prior to any future sale or development of this lot, conformance with the City of Fremont Subdivision Ordinance and the Subdivision Map Act will be required.

Project Description: This one-lot tentative parcel map will bring an illegally subdivided lot into compliance with the City of Fremont Subdivision Ordinance. The subject lot is 9,368 square feet with 73 feet of frontage on Duarte Avenue. Duarte Avenue is a pre-city, two lane (twenty foot paved width) street, 500 feet long. No permanent street improvements have been installed.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Low Density Residential, 5-7 units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the subdivision would result in an increased development density from 1.79 dwelling units per acre to 3.57 dwelling units per acre.
- **Zoning Regulations:** The site is zoned Single Family Residential within an Historic Overlay District and the Hillside Combining District, R-1-6(H)(H-I). The proposed lot dimensions and lot sizes of the subject property (9,368 square feet) and the remaining portion of the original parcel (14,892 square feet) conform to the zoning district requirements. The lot sizes of the subject property and the remainder of the original parcel are compatible with the lot sizes of adjacent properties on Duarte Avenue, which range from a 6,017 square foot lot located directly across the street to an 11,807 square foot lot located to the immediate north. No development of this lot is proposed at this time.
- **Circulation/Access Analysis:** Access to the site is from Duarte Avenue (presently a 40 foot right of way). Duarte Avenue is a minor residential cul-de-sac and requires a 52-foot right of way. An additional 6 feet of right of way will be required to be dedicated across the lot frontage and will be a condition of the final Parcel Map. Installation of street improvements (curb, gutter, sidewalk etc.) across the lot frontage will be required at the time when development is proposed on the adjacent properties. The installation of street improvements will improve pedestrian and vehicle access from Duarte Avenue on and off of Mission Boulevard, a major thoroughfare.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park land dedication-in-lieu, park facilities, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Environmental Analysis: This project is categorically exempt from CEQA per Section 15315 of the CEQA Guidelines. This section allows exemptions for Minor Land Divisions. The site is located in the Alquist-Priolo seismic study zone and a geologic hazard investigation and report have been completed and approved by the City's consultant. There are no geologic hazards that would preclude further development of the site.

Response from Agencies and Organizations: No responses have been received.

Enclosures: Exhibit "A" (Tentative Parcel Map 8012)
Exhibit "B" (Findings and Conditions of Approval for TPM 8012)

Exhibits: Exhibit "A" (Tentative Parcel Map 8012)
Exhibit "B" (Findings and Conditions of Approval for TPM 8012)

Recommended Actions:

1. Hold public hearing.
2. Find the proposed project to be categorically exempt from environmental review per Section 15315 of the CEQA Guidelines.
3. Find PLN 2002-0329 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan as enumerated within the staff report.
4. Approve Tentative Parcel Map 8012, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

EXHIBIT "B"

TENTATIVE PARCEL MAP 8012 (TPM-8012)

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated September 12, 2002, incorporated hereby, and the testimony at the public hearing.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The proposed subdivision, together with the provisions of its design and improvement is consistent with the General Plan and any applicable specific plans since the proposed lot configuration is in conformance with the **Low Density Residential, 5-7 dwelling units per acre** requirements of the General Plan.
3. The site is physically suitable for the type and proposed density of the development since the proposed lot configuration is in conformance with the **R-1-6 (H)(H-I) Single-Family Residence District, Historical Overlay District, Hillside Combining District** requirements of the Zoning Ordinance.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the project will be an infill project within an existing single family neighborhood.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems since the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements is required prior to final parcel map approval.

CONDITIONS:

1. Conformance with staff amended Exhibit "A", attached hereto and made a part hereof.
2. This Tentative Parcel Map (TPM) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the TPM application. If any of the information is shown to be inaccurate subsequent to approval of the TPM by the City, such inaccuracy may be cause for invalidating this approval.
3. Only one final Parcel Map is allowed to accomplish the lot split proposed by this vesting tentative parcel map.
4. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.
5. Pursuant to FMC Section 8-1523, the record owner(s) are to dedicate the required street right-of-way and public easements as shown on the Exhibit "A". Any additional easements required by the various public utilities and public agencies shall be dedicated prior to final parcel map approval.

6. Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve or agree to improve the Duarte Avenue frontage of the parcel map within one year of final parcel map approval. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. The minimum improvements which the subdivider is normally required to construct or agree to construct prior to acceptance and approval of the final parcel map by the City are as set forth in FMC Section 8-1522. Improvements to be constructed include:

- Curb and gutter
- Sidewalk
- Driveways
- Street paving
- Electroliers (wired underground)
- Drainage facilities
- Signs
- Fire hydrants

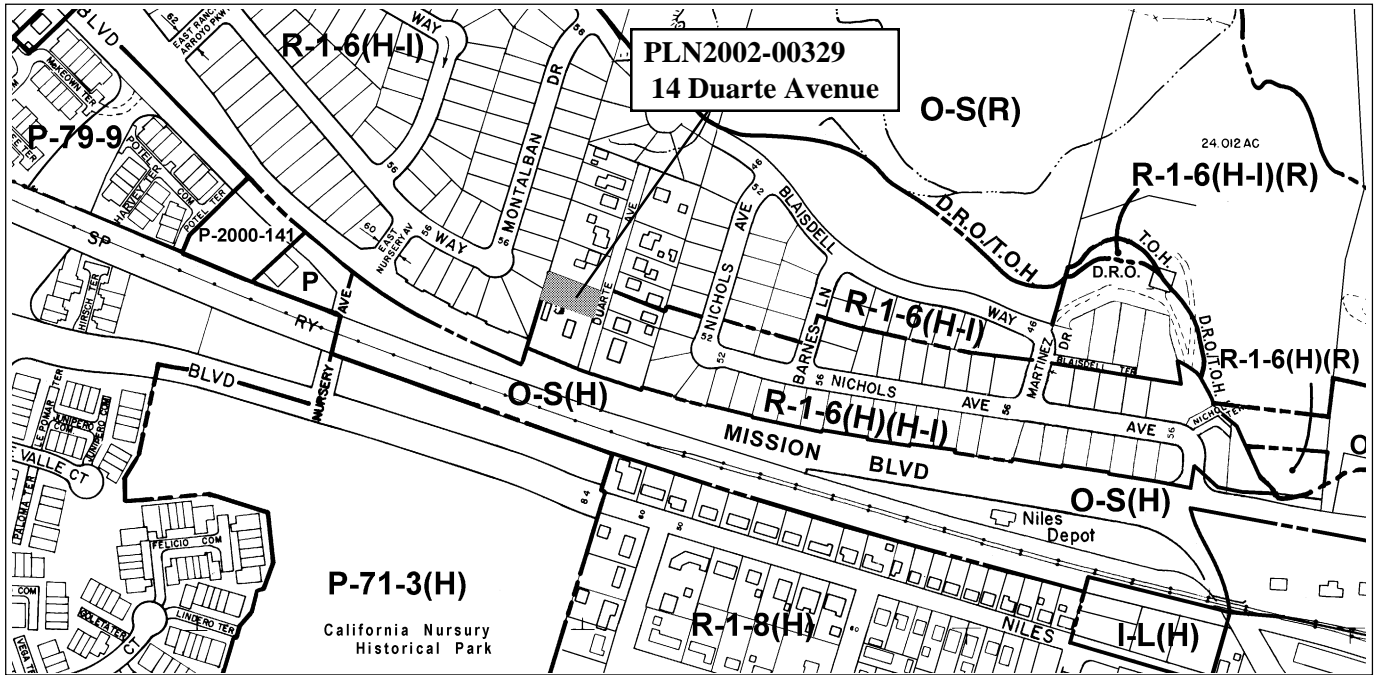
7. Pursuant to FMC Section 8-3107(f), any improvements in the public right-of-way necessitated by the proposed use of the subdivided property can be deferred until building permit issuance. The necessary agreements, guarantees and plans for the construction of the improvements shall be subject to the approval of the Development Organization Engineer. A note referencing this future improvement obligation is to be placed prominently on the face of the final parcel map.
8. Pursuant to FMC Section 6-3104.5(h), this project is exempt from the requirements of the City of Fremont Underground Ordinance.
9. Review of the tentative map by the Fire Department relative to local and State Fire Code is based on the material submitted. Therefore, if the map is revised prior to final submittal, the Fire Marshal should be contacted so that any changes may be properly reviewed and evaluated. The on-site and/or off-site fire hydrants were required, as per tentative parcel map annotations, in accordance with Fremont Fire Code Article No. 13.
10. Removal of existing trees over four inches in diameter, excluding nut-bearing and fruit-bearing trees except for walnut trees and olive trees, shall be subject to the approval of the Senior Landscape Architect for the City. The precise location of such existing trees shall be shown on the site plan and/or landscape plan at the time of building permit application.
11. The subdivider is required to provide a cash payment to the City of Fremont for imaging the recorded parcel map. The subdivider is also required by ordinance to provide the City with a mylar copy of the recorded parcel map subsequent to its recordation.
12. Provide a letter from Alameda County Water District giving the location and sealing specifications for all water wells within the subdivision boundary. If there are no wells, a letter so stating must be provided.
13. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall indemnify and hold harmless the City of Fremont or it's agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or it's agents, officers, or employees to attack, set aside, void, or annul an approval of the City of Fremont, advisory agency appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

The City of Fremont shall promptly notify the subdivider of any claim, action, or proceeding to attack, set aside, void or annul its approval and shall cooperate fully in the defense.

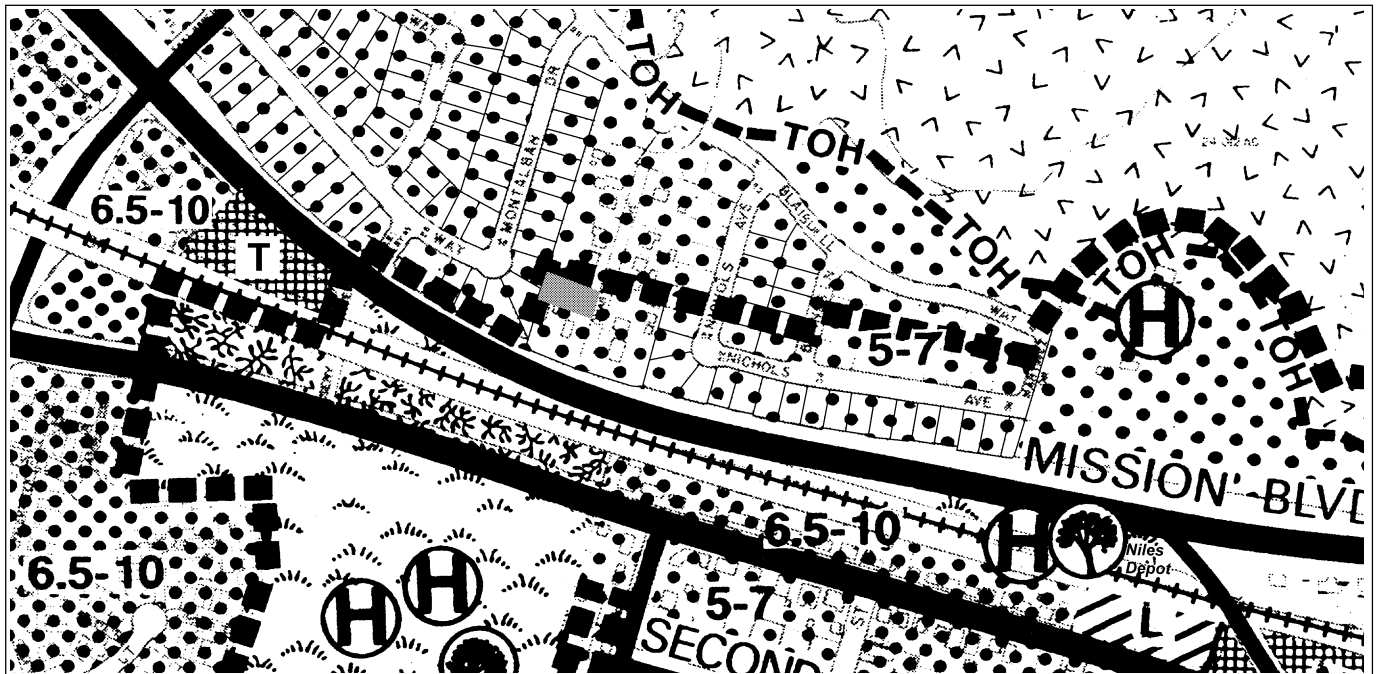
SUBDIVIDER PLEASE NOTE :

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative parcel map approval. Any fee, dedication, reservation or other exaction shall be only those in effect on the date of this tentative parcel map approval (9/12/02). The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative parcel map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number: PLN2002-00329 (TPM)
Project Name: Tentative Parcel Map 8012
Project Description: To consider a Tentative Parcel Map 8012 (a one-lot subdivision) to legalize one of the two parcels created by an illegal subdivision and bring it into conformance with the City of Fremont Subdivision Ordinance and Subdivision Map Act.

Note: Prior arrangements for access are not required for this site.

